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10 **BEFORE THE**  
11 **BOARD OF REGISTERED NURSING**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

13 In the Matter of the First Amended Accusation  
Against:

Case No. 2007-251

OAH No. N-2007110739

14 **DEBORAH JANE BABB**

15 11667 El Pomar Avenue

16 Waterford, California 95386

**FIRST AMENDED  
ACCUSATION**

17 Registered Nurse License No. 364259

Nurse Practitioner Certificate No. 14854

18 Respondent.

19  
20 Complainant alleges:

21 **PARTIES**

22 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this First Amended  
23 Accusation solely in her official capacity as the Executive Officer of the Board of Registered  
24 Nursing ("Board"), Department of Consumer Affairs.

25 **Registered Nurse License No. 364259**

26 2. On or about August 31, 1983, the Board issued Registered Nurse License  
27 Number 364259 to Deborah Jane Babb ("Respondent"). Respondent's registered nurse license

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1 was in full force and effect at all times relevant to the charges brought herein and will expire on  
2 August 31, 2009, unless renewed.

3 **Nurse Practitioner Certificate No. 14854**

4 3. On or about April 26, 2004, the Board issued Nurse Practitioner  
5 Certificate Number 14854 to Respondent. Respondent's nurse practitioner certificate was in full  
6 force and effect at all times relevant to the charges brought herein and will expire on August 31,  
7 2009, unless renewed.

8 **STATUTORY PROVISIONS**

9 4. Business and Professions Code ("Code") section 2750 provides, in  
10 pertinent part, that the Board may discipline any licensee, including a licensee holding a  
11 temporary or an inactive license, for any reason provided in Article 3 (commencing with Code  
12 section 2750) of the Nursing Practice Act.

13 5. Code section 2764 provides, in pertinent part, that the expiration of a  
14 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding  
15 against the licensee or to render a decision imposing discipline on the license. Under Code  
16 section 2811, subdivision (b), the Board may renew an expired license at any time within eight  
17 years after the expiration.

18 6. Code section 2761, subdivision (a)(1), states, in pertinent part, that the  
19 Board may take disciplinary action against a certified or licensed nurse for unprofessional  
20 conduct, which includes, but is not limited to, incompetence or gross negligence in carrying out  
21 usual certified or licensed nursing functions.

22 7. California Code of Regulations, title 16, section ("Regulation") 1443  
23 states:

24 As used in Section 2761 of the code, "incompetence" means the lack of  
25 possession of or the failure to exercise that degree of learning, skill, care and  
26 experience ordinarily possessed and exercised by a competent registered nurse as  
described in Section 1443.5.

27 8. Regulation 1443.5 states, in pertinent part:

28 A registered nurse shall be considered to be competent when he/she

1 consistently demonstrates the ability to transfer scientific knowledge from social,  
2 biological and physical sciences in applying the nursing process, as follows:

3 . . . .

4 (2) Formulates a care plan, in collaboration with the client, which ensures that  
5 direct and indirect nursing care services provide for the client's safety, comfort, hygiene,  
6 and protection, and for disease prevention and restorative measures.

6 . . . .

7 (4) Delegates tasks to subordinates based on the legal scopes of practice of  
8 the subordinates and on the preparation and capability needed in the tasks to be  
9 delegated, and effectively supervises nursing care being given by subordinates . . .

### 9 **COST RECOVERY**

10 9. Code section 125.3 provides, in pertinent part, that the Board may request  
11 the administrative law judge to direct a licentiate found to have committed a violation or  
12 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
13 and enforcement of the case.

### 14 **FIRST CAUSE FOR DISCIPLINE**

#### 15 **(Incompetence)**

16 10. At all times herein mentioned, Respondent was the sole owner and  
17 Clinical Director of Valley Wound Healing Center, located in Modesto, California. On and  
18 between August 20, 2003, and November 10, 2003, James Z. was a patient at the center and  
19 during 31 visits to the center received care and treatment from various licensed staff, including  
20 Respondent, for a left heel wound.

21 11. Respondent is subject to disciplinary action pursuant to Code section  
22 2761, subdivision (a)(1), on the grounds of unprofessional conduct, in that she was guilty of  
23 incompetence in her care of patient James Z. within the meaning of Regulation 1443, as follows:

24 a. On or about November 7, 2003, Respondent documented in the patient's  
25 medical records that the patient had no signs or symptoms of infection, yet a prescription for  
26 Keflex, an antibiotic, was called in to the patient's pharmacy that same day. Respondent failed to  
27 accurately document the reason for prescribing an antibiotic for the patient.

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1           b.       On or about November 7, 2003, patient Z showed signs of an increased  
2 erythema of the wound and that a beginning cellulitis. Visit notes do not indicate that a physician  
3 was consulted about this deterioration in patient's condition. Respondent therefore failed to  
4 follow protocol in that she either did not consult with the a physician, or did consult with a  
5 physician but did not document the consultation in the visit notes.

6           c.       On or about August 22<sup>nd</sup> and 25<sup>th</sup>, 2003; September 2nd, 3rd, 5th, 8th,  
7 13th, 15th, 17th, 24th, 26<sup>th</sup> and 29<sup>th</sup>, 2003; October 1st, 3rd, 6th, 8th, 10th, 13th, 16th, 20th, 24th,  
8 27<sup>th</sup> and 30<sup>th</sup>, 2003, patient James Z. came in to Valley Wound Healing Center for treatment, yet  
9 visit notes do not indicate that the size of the patient's wound was changing. Respondent failed  
10 to respond to this lack of improvement in the patient's condition by in any way altering the  
11 treatment plan to be used in healing the patient's wound.

## 12                               **SECOND CAUSE FOR DISCIPLINE**

### 13                               **(Unprofessional Conduct)**

14           12.       Complainant incorporates by reference as if fully set forth herein the  
15 allegations contained in paragraphs 10 and 11 above.

16           13.       Respondent is subject to disciplinary action pursuant to Code section  
17 2761, subdivision (a), in that on and between August 20, 2003, and November 7, 2003, she  
18 committed acts constituting unprofessional conduct, as set forth in paragraph 11 above.

### 19                               **PRAYER**

20           WHEREFORE, Complainant requests that a hearing be held on the matters herein  
21 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

22           1.       Revoking or suspending Registered Nurse License Number 364259, issued  
23 to Deborah Jane Babb;

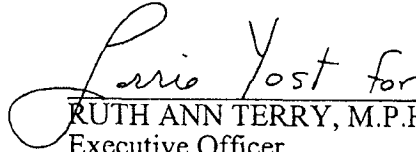
24           2.       Revoking or suspending Nurse Practitioner Certificate Number 14854,  
25 issued to Deborah Jane Babb;

26           3.       Ordering Deborah Jane Babb to pay the Board of Registered Nursing the  
27 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
28 Professions Code section 125.3;

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4. Taking such other and further action as deemed necessary and proper.

DATED: June 2, 2008.

  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
  
Complainant

03579-110-SA2006100173